JOURNAL

OF THE

SOCIETY OF COMPARATIVE LEGISLATION.

EDITED FOR THE SOCIETY BY

SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.,

AND

EDWARD MANSON, Esq.

ASSISTED BY

C. E. A. BEDWELL, Esq.

"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ὀφθῇ καὶ τὸ χρήσιμον."—Arist. *Pol.* II. 1.

New Series. Vol. XVI.

(Comprising Numbers XXXV. and XXXVI.)

LONDON:

JOHN MURRAY, ALBEMARLE STREET, W.

1916.

[*All rights reserved.*]

PRINTED BY
HAZELL, WATSON AND VINEY, LD.,
LONDON AND AYLESBURY,
ENGLAND.

BIBL.
LONDIN.
UNIV.

CONTENTS

PAGE

1. THE RIGHT HON. SIR R. B. FINLAY, G.C.M.G., K.C., M.P.: PORTRAIT AND SKETCH 1
   Contributed by THE HON. MR. JUSTICE ROWLATT.

2. THE INTERNATIONAL JOINT COMMISSION 5
   Contributed by LAWRENCE J. BURPEE, ESQ., Canadian Secretary of the International Joint Commission.

3. LABOUR LEGISLATION IN THE UNITED STATES . . . 13
   Contributed by SAMUEL ROSENBAUM, ESQ., of the Pennsylvania Bar.

4. SOME NOTES ON THE CONSTITUTION AND LEGISLATION OF THE FEDERATED MALAY STATES 24
   Contributed by J. R. INNES, ESQ., Barrister-at-Law, Judicial Commissioner, Federated Malay States.

5. THE INCOME TAXES OF THE SELF-GOVERNING DOMINIONS . 30
   Contributed by S. E. MINNIS, ESQ.

6. I ÉDOUARD CLUNET: PORTRAIT AND SKETCH . . 97
   Contribute by (*a*) M. LOUIS RENAULT, G.C.M.G., F.B.A.
   (*b*) T. E. HOLLAND, ESQ., K.C.

7. THE "ZAMORA" JUDGMENT 102
   Contributed by H. REASON PYKE, ESQ., LL.D.

8. THE PUBLIC TRUSTEE IN INDIA, NEW ZEALAND, AUSTRALIA, AND ENGLAND 110
   Contributed respectively by SIR E. J. TREVELYAN, J. CHRISTIE, ESQ., LL.M., W. WRIGHT, ESQ., and D. H. PETTITT, ESQ.

9. EARLY JEWISH LAW AND CUSTOM 140
   Contributed by SIR COURTENAY ILBERT, G.C.B., K.C.S.I.

PAGE

10. GAMBLING DEBTS IN FOREIGN LAW 146
Contributed by W. J. BARNARD BYLES, ESQ.

11. NATIONAL CONFERENCE OF COMMISSIONERS OF UNIFORM STATE LAWS IN THE UNITED STATES 154
Contributed by WALTER GEORGE SMITH, a former President.

THE COMMISSIONERS' TWENTY-FIFTH REPORT . . . 166
Contributed by SIR M. D. CHALMERS, K.C.B., C.S.I.

12. LEGAL PROCEDURE IN CANADA 170
Contributed by G. S. HOLMESTED, ESQ., K.C.

13. THE CASE-METHOD OF TEACHING LAW 182
Contributed by PROFESSOR COURTNEY KENNY.

14. THE HUMAN LEOPARDS OF SIERRA LEONE 195
Contributed by A. GRAY, ESQ., C.B., K.C.

15. THE CONSTITUTIONS OF INDIA AND CANADA . . . 199
Contributed by PROFESSOR A. BERRIEDALE KEITH, D.C.L., D.Litt.

16. THE CONSOLIDATION OF THE STATUTE LAW OF VICTORIA . 220
Contributed by the HON. DONALD MACKINNON, M.L.A., late Attorney-General for Victoria.

17. THE CONSUL AS A FACTOR IN TRADE AND COMMERCE . . 225
Contributed by BARON A. HEYKING, D.C.L.

18. THE INDICTMENTS ACT, 1915 236
Contributed by G. GLOVER ALEXANDER, ESQ., LL.M.

19. SIR JOHN FORTESCUE 248
Contributed by H. J. RANDALL, ESQ.

20. THE CODIFICATION OF THE COMMERCIAL LAW OF THE EMPIRE . 265
Contributed by SIR JOHN MACDONELL, K.C.B., LL.D.

21. THE CHILDREN'S RIGHTS LAWS AND MATERNITY INSURANCE IN NORWAY 283
Contributed by J. CASTBERG, ESQ., President of the Odelsting.

22. SOME NOTES ON THE DECISIONS OF THE FRENCH PRIZE COURTS 300
Contributed by C. J. COLOMBOS, ESQ., LL.D.

23. A DEFENCE OF ROUSSEAU'S THEORY OF THE SOCIAL CONTRACT 322
Contributed by W. BLAKE ODGERS, ESQ., K.C., LL.D., F.S.A.

PAGE

24. ABSENT VOTING 333
Contributed by DUNCAN CAMPBELL LEE, ESQ.

25. CHILDREN AND THE CINEMATOGRAPH 346
Contributed by EDWARD MANSON, ESQ.

26. NOTES ON CASES:

Australia 57, 354
Contributed by JAMES EDWARD HOGG, ESQ.

England. 54

India 60, 360
Contributed by SIR E. J. TREVELYAN.

Quebec 357
Contributed by PROFESSOR R. W. LEE.

South Africa 61

27. NOTES:

The Malta Prize Court 67
The Library of the Royal Colonial Institute . . . 71
A World Court 71
Major A. J. N. Tremearne 72
Tongan Islands Protectorate 72
The Australian Court of Conciliation and Arbitration . 73
The *Titanic* Case 73
Index to American Statutes 74
Mothers' Pension Laws 74
Empire Parliamentary Association 76
Obituary 77
The Case of Edith Cavell 77
The Coming of Age of the Society 78
Local Correspondents 79
Commercial Law of the Empire 363
Canadian Bar Association 365
The Case of the Lost Million 365
The Uniform Construction of the Uniform Acts . . 366
Workmen's Compensation Laws 369
The Comparative Method in Jurisprudence . . . 369
Japanese Law 371
"International Law Notes" 371
Royal Colonial Institute 371
The City-Manager Plan 371
Prohibition and Women Suffrage 373
A Digest of English Civil Law 374
The "Index to Periodical Literature" 375

PAGE

NOTES (*continued*):

Military Training in the Federated Malay States . . 376
Mr. Justice Holmes 377
Financial Report for 1915 378

28. REVIEWS:

Ridges, E. W., *Constitutional Law of England*. C. E. BUCKLAND 81
Roxburgh, R. F., *The Prisoners of War Information Bureau in London*. G. G. P. 82
Phillipson, Coleman, *International Law and the Great War*. E. A. WHITTUCK 83
Consolidated Laws of Gibraltar. A. GRAY, C.B., K.C. . 86
Reis, Charles, *The Government of Trinidad*. A. B. KEITH . 87
Government Aid to Home-owning and Housing of Working People in Foreign Countries. SYDNEY G. TURNER . 88
Lefroy, A. H. F., *Leading Cases in Canadian Constitutional Law*. A. B. K. 89
Revised Statutes of Manitoba. J. S. HENDERSON . . 91
De Becker, J. E., *Commentary on the Commercial Code of Japan*. T. MATHEW 92
Russell, E. B., *The Review of American Legislation by the King in Council*. C. E. A. B. 93
Periodicals 95
Papers read before the Grotius Society. C. P. I. . . . 381
De Mello, A., *A Manual of the Law of Extradition and Fugitive Offenders*. G. G. PHILLIMORE . . . 384
Annuaire International de Législation Agricole. R. E. PROTHERO 385
Lee, R. W., *Introduction to Roman-Dutch Law*. J. C. LEDLIE 387
Baty, T., *Vicarious Liability*. W. WYATT PAINE . . 389
Pyke, H. Reason, *The Law of Contraband of War*. G. G. PHILLIMORE 392
Political Writings of Jean Jacques Rousseau, edited by C. E. Vaughan. W. BLAKE ODGERS 394
Settle, A. T., and Baber, F. H. *The Law of Public Entertainments* 395
Cahall, Raymond du Bois, *The Sovereign Council of New France*. A. B. K. 394
Assam Code. C. E. BUCKLAND. 398
Minhaj et Talibin. E. J. TREVELYAN 399

[For the Review of Legislation see separate Table of Contents.]

THE SOCIETY OF COMPARATIVE LEGISLATION.

PRESIDENT:

THE RT. HON. THE EARL OF ROSEBERY, K.G., K.T., D.C.L., LL.D., F.R.S.

CHAIRMAN OF THE EXECUTIVE COMMITTEE:

SIR COURTENAY ILBERT, G.C.B., K.C.S.I., C.I.E.

VICE-CHAIRMAN:

SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.

COUNCIL:

Sir James Aikins, K.C., M.P., President of the Canadian Bar Association.

The Rt. Hon. H. H. Asquith, K.C., D.C.L., LL.D., F.R.S., M.P., Prime Minister and First Lord of the Treasury.

Sir Thomas Barclay, LL.B., Ph.D.

The Rt. Hon. Sir R. L. Borden, G.C.M.G., K.C., LL.D., Premier of Canada.

The Rt. Hon. Viscount Bryce, O.M., D.C.L., LL.D., F.R.S., formerly British Ambassador at Washington.

M. Lyon Caen, Membre de l'Institut de France.

Sir M. D. Chalmers, K.C.B., C.S.I., formerly Permanent Under-Secretary of State for the Home Department.

The Rt. Hon. J. Austen Chamberlain, M.P., Secretary of State for India.

The Hon. J. H. Choate, D.C.L., LL.D., formerly United States Ambassador at the Court of St. James's.

F. H. M. Corbet, Esq., Advocate-General for Madras.

Baron de Courcel, formerly French Ambassador at the Court of St. James's.

H. Bertram Cox, Esq., C.B., Solicitor to the Board of Inland Revenue.

R. Newton Crane, Esq.

M. Daguin, Secrétaire général de la Société de Législation Comparée.

M. Dareste, Membre de l'Institut de France.

Sir Edward Davidson, K.C.M.G., C.B., K.C., Legal Adviser to the Foreign Office.

The Hon. Alfred Deakin, formerly Prime Minister of the Commonwealth of Australia.

The Rt. Hon. Sir Samuel Evans, LL.D., President of the Probate, Divorce, and Admiralty Division of the High Court of Justice.

The Rt. Hon. Sir R. B. Finlay, G.C.M.G., K.C., LL.D., formerly Attorney-General.

The Rt. Hon. Andrew Fisher, High Commissioner for Australia.

The Rt. Hon. Sir Charles Fitzpatrick, G.C.M.G., Chief Justice of Canada.

The Rt. Hon. Sir Edward Fry, G.C.B., D.C.L., LL.D., F.R.S., formerly one of H.M.'s Lord Justices of Appeal.

Albert Gray, Esq., C.B., K.C., Counsel to the Lord Chairman of Committees, House of Lords.

The Rt. Hon. Sir Samuel Griffith, G.C.M.G., LL.D., Chief Justice of the High Court of Australia.

The Rt. Hon. Viscount Haldane, K.T., O.M., D.C.L., LL.D., F.R.S., formerly Lord High Chancellor of Great Britain.

The Rt. Hon. the Earl of Halsbury, D.C.L., F.R.S., formerly Lord High Chancellor of Great Britain.

Sir A. Norman Hill.

T. E. Holland, Esq., K.C., D.C.L., LL.D., formerly Chichele Professor of International Law, Oxford.

The Rt. Hon. Sir Francis Hopwood, G.C.M.G., G.C.B., Additional Civil Lord of the Admiralty.

Sir Courtenay Ilbert, G.C.B., K.C.S.I., C.I.E., Clerk to the House of Commons.

Edward Jenks, Esq., B.C.L., Principal and Director of Studies of the Law Society.

Courtney Kenny, Esq., LL.D., F.B.A., Downing Professor of Law in the University of Cambridge.

The Rt. Hon. A. Bonar Law, Secretary of State for the Colonies.

The Rt. Hon. Lord Lindley, D.C.L., LL.D., F.R.S., formerly a Lord of Appeal.

Prof. Dr. von Lizst, Berlin.

The Rt. Hon. the Earl Loreburn, G.C.M.G., D.C.L., formerly Lord High Chancellor of Great Britain.

Sir John Macdonell, K.C.B., LL.D., F.B.A., Senior Master of the Supreme Court of Judicature and King's Remembrancer; Professor of Comparative Law, University College, University of London.

The Hon. Sir Thomas Mackenzie, K.C.M.G., High Commissioner for New Zealand.

Edward Manson, Esq., Registrar of the High Court in Bankruptcy for Companies and Winding-up.

Sir W. H. Mercer, K.C.M.G., one of the Crown Agents for the Colonies.

W. Harrison Moore, Esq., Dean of the Faculty of Law of Melbourne University.

The Rt. Hon. Sir Edward Morris, K.C.M.G., K.C., LL.D., Premier of Newfoundland.

The Rt. Hon. Sir Francis Mowatt, G.C.B., formerly Permanent Secretary to the Treasury.

The Rt. Hon. Lord Muir Mackenzie, G.C.B., K.C.

H.E. the Hon. Walter Hines Page, LL.D., United States Ambassador at the Court of St. James's.

The Rt. Hon. Sir Frederick Pollock,

Bart., D.C.L., LL.D., Judge of the Cinque Ports.

Sir T. Raleigh, K.C.S.I., K.C., D.C.L., formerly Member of the Council of the Secretary of State for India.

The Rt. Hon. Viscount Reading, G.C.B., K.C.V.O., Lord Chief Justice of England.

The Rt. Hon. Lord Reay, K.T., G.C.S.I., G.C.I.E., LL.D., D.Litt., formerly Governor of Bombay.

M. Louis Renault, G.C.M.G., D.C.L., F.B.A., Membre de l'Institut de France.

Sir H. Erle Richards, K.C.S.I., Chichele Professor of International Law.

J. S. Risley, Esq., C.B., Legal Adviser to the Colonial Office.

Sir Albert K. Rollit, D.C.L., LL.D.

The Rt. Hon. the Earl of Rosebery, K.G., K.T., D.C.L., LL.D., F.R.S., *President.*

The Hon. W. P. Schreiner, K.C., C.M.G., High Commissioner for the Union of South Africa.

Ernest Schuster, Esq., LL.D., Munich.

The Rt. Hon. Lord Shaw, LL.D., a Lord of Appeal in Ordinary.

The Rt. Hon. Sir John Allsebrook Simon, K.C.V.O., K.C., M.P.

Sir H. Llewellyn Smith, K.C.B., Permanent Secretary to the Board of Trade.

Professor Dr. Sohm, Leipzig.

The Rt. Hon. Sir Thomas Vezey Strong, K.C.V.O., formerly Lord Mayor of the City of London.

The Hon. Sir Josiah Henry Symon, K.C.M.G., K.C., formerly Attorney-General of the Commonwealth of Australia.

W. H. Taft, Esq.

E. A. Whittuck, Esq., B.C.L.

Sir H. F. Wilson, K.C.M.G., Secretary of the Royal Colonial Institute.

Sir Alexander Wood-Renton, Chief Justice of Ceylon.

EXECUTIVE COMMITTEE

Sir Thomas Barclay, LL.B., Ph.D.

The Rt. Hon. Viscount Bryce, O.M., D.C.L., LL.D., F.R.S.

Sir M. D. Chalmers, K.C.B., C.S.I.

H. Bertram Cox, Esq., C.B.

R. Newton Crane, Esq.

Sir Edward Davidson, K.C.M.G., C.B., K.C.

Albert Gray, Esq., C.B., K.C.

The Rt. Hon. Viscount Haldane, K.T., O.M.

Sir Courtenay Ilbert, G.C.B., K.C.S.I., C.I.E., *Chairman.*

Sir John Macdonell, K.C.B., LL.D., F.B.A., *Vice-Chairman.*

The Rt. Hon. Lord Muir Mackenzie, G.C.B., K.C.

Edward Manson, Esq., *Secretary.*

The Rt. Hon. Lord Reay, K.T., G.C.S.I., G.C.I.E., LL.D.

J. S. Risley, Esq., C.B.

Ernest Schuster, Esq., LL.D.

The Rt. Hon. Sir John A. Simon, K.C.V.O., K.C., M.P.

Sir H. Llewellyn Smith, K.C.B.

The Rt. Hon. Sir Thomas Vezey Strong, K.C.V.O.

Sir H. F. Wilson, K.C.M.G.

HONORARY SECRETARY:
EDWARD MANSON, ESQ.

ASSISTANT SECRETARY:
R. E. WILLCOCKS, ESQ.

EDITORS OF THE JOURNAL:
SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.
EDWARD MANSON, ESQ.

ASSISTANT EDITOR:
C. E. A. BEDWELL, ESQ.

Communications respecting the Society's Journal should be addressed to the Editors, 3, (North) King's Bench Walk, Temple, London, E.C., and upon other matters to the Secretary at the same address.

LOCAL CORRESPONDENTS:

Bahamas.—THE HON. HARCOURT MALCOLM, K.C.

Bermuda.—THE HON. REGINALD GRAY, K.C.

China.—THE HON. C. G. LOBINGIER, United States Court for China, Shanghai, China.

Egypt.—R. G. BRUNTON, ESQ., Ministry of Justice, Cairo.

Federated Malay States.—MR. JUSTICE INNES, Judicial Commissioner, Kuala Lumpur.

France.—M. C. SANSAS, docteur en droit, 19, Rue de l'Université, Montpellier.

Japan.—J. E. DE BECKER, Esq., Foreign Board of Trade Building No. 75, Yamashita-cho, Yokohama, Japan.

Newfoundland.—The HON. W. R. WARREN, K.C., Board of Trade Building, St. Johns, Newfoundland.

New Zealand.—J. CHRISTIE, Esq., LL.B., Law Drafting Office, Wellington, New Zealand.

South Australia.—G. A. YUILL, Esq., c/o Messrs. Glynn, Parsons & McEwin, Insurance Chambers, King William Street, Adelaide.

Straits Settlements.—A. DE MELLO, Esq., 1, Raffles Place, Singapore.

London Stereoscopic Co.

The Rt. Hon. Sir R. B. Finlay, G.C.M.G., K.C., M.P.